

P-3003/NA-88-987 APPROVING REFUND PLAN AND REQUIRING FILINGS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Darrel L. Peterson	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Patrice Vick	Commissioner

In the Matter of a Request by Telesphere
Network, Inc. for a Certificate of Authority
to Sell Long Distance Service and Provide
Alternative Operator Service

ISSUE DATE: June 4, 1990

DOCKET NO. P-3003/NA-88-987

ORDER APPROVING REFUND PLAN AND
REQUIRING FILINGS

PROCEDURAL HISTORY

On May 10, 1988, the Minnesota Department of Public Service (the Department) filed with the Commission a complaint against Telesphere Network Inc. (Telesphere or the Company) alleging that Telesphere had provided intrastate telecommunications services without a certificate of authority.

On December 22, 1988, the Company filed for a certificate.

On September 26, 1989, the Commission granted Telesphere a certificate of authority. This order also required the Company to file a refund plan for two time periods. The first time period that the refund plan was to apply to was the time before the Company applied for its certificate. For this period, the Commission ordered Telesphere to refund the revenue it received in excess of AT&T's rates for intrastate service between

June 8, 1988 (the deadline by which Telesphere was originally required to respond to the Department's complaint) and

December 22, 1988 (the date the Company applied for a certificate).

The Order further provided that the second time period to be addressed included all revenues collected from December 22, 1988 until the Company stopped providing intrastate services (February 1989).

On October 26, 1989, Telesphere proposed a "going-forward" rate reduction that would refund a total of \$22,557.00 for the two time periods.

On November 7, 1989, the Department filed a letter with the Commission stating that Telesphere's refund plan complied with the September 26, 1989 Commission Order.

On February 9, 1990, the Commission received Telesphere's plans for the mechanics of the refund

and on May 11, 1990, following discussions with Commission staff regarding payment of interest on the refund and the length of the refund period, Telesphere filed amendments to the refund plan.

On May 22, 1990, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

The Company's amended refund plan is as follows:

1. The refund will be accomplished by reducing rates on intrastate calls 20% below its currently tariffed rates.
2. The rate reduction will continue on a "going-forward" monthly basis until a total of \$26,041.00 has been refunded. This includes:
 - a. The \$7,100.00 for the time period Telesphere operated in Minnesota before applying for a certificate.
 - b. The \$15,457.00 for the time period Telesphere operated in Minnesota after applying for a certificate until it stopped providing service.
 - c. Interest of \$3,484.00 calculated at 9% and applied as follows:
 - i) From June 1988 to June 1990 on \$7,100.00
 - ii) From December 1988 to June 1990 on \$15,457.00.
3. Telesphere proposes to report to the Commission every 6 months on the progress of the refund until the total \$26,041.00 has been refunded. Telesphere anticipates that the refund will continue for approximately 16 months, depending on the level of use of Telesphere's services.

Under the Company's plan, some of the amounts refunded may not be returned to the customers from whom they were collected due to customer turnover. This is not a crucial defect in this case, however, since the refund is due to non-certification rather than overcollection. Commission has made no finding that the customers were overcharged in the first place and presumably received appropriately valued telephone service for the payments they made.

Moreover, the Commission has approved a refund via rate reduction plan even in a case involving actual overcollection. See In the Matter of the Petition of AT&T Communications of the Midwest, Inc. to Change Its Rates for Telephone Service Offered Within the State of Minnesota, Docket No. P-442/EM-87-862, ORDER ACCEPTING AND APPROVING COMPLIANCE FILINGS (August 26, 1988). In that general rate case, the Commission had ordered AT&T to reduce rates it had put

into effect on February 1, 1988 and refund the difference between the rates approved by the Commission and the rates implemented on February 1, 1988. In its August 26, 1988 order, the Commission approved AT&T's proposal to refund the overcollected amount via reduced rates. While noting its traditional preference for refunding directly to the customers who had been overcharged, the Commission approved a reduced rate refund in that case because it would be "virtually impossible for the Company to make accurate refunds to individual customers." In the Matter of the Petition of AT&T, Docket No. P-442/EM-87-862, ORDER (August 26, 1988), page 2. Likewise in the present case, the difficulty of making accurate refunds to individual customers supports the reasonableness of a refund via reduced rates.

The Commission finds that the other aspects of this refund plan are acceptable. The totals and basis for calculating the amounts to be refunded appear to be consistent with the Commission's September 26, 1989 order. The size of the rate reduction (20%) and the resulting time period to accomplish the refund are reasonable in light of the intended purpose of the refund.

In these circumstances, the Commission agrees that a "going forward" rate reduction is a reasonable and efficient manner of administering the refund and will approve the specifics of the Company's amended plan.

ORDER

1. Telesphere shall refund all revenues collected within Minnesota in excess of the rates charged by AT&T from June 8, 1988 to December 22, 1988 together with interest at 9% for the period of June 1988 to June 1990.
2. Telesphere shall refund all revenues collected for services in Minnesota from December 22, 1988 through February 1989 together with interest at 9% for the period of December 1988 to June 1990.

3. Telesphere shall refund the above revenues by reducing future intrastate rates by 20% until the total amount of \$26,041.00 is refunded. This revenue reduction shall become effective 30 days after the issue date of this order and remain in effect until the total refund amount and interest is returned to ratepayers.
4. Within 10 days of the date of the order, Telesphere shall make a compliance tariff filing with the Minnesota Department of Public Service and the Commission reflecting the rate reduction.
5. Within six months after the rate reductions become effective, Telesphere shall report to the Commission on the progress of the refund and again every six months after that until the entire amount is refunded.
6. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

(S E A L)